

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Joseph T. Hackett,)	C/A No. 9:13-1274-JFA-BM
)	
Petitioner,)	
v.)	ORDER
)	
Warden Kenny Atkinson of Edgefield)	
Satellite Prison Camp,)	
)	
Respondent.)	
_____)	

The *pro se* petitioner, Joseph T. Hackett, is an inmate at the Federal Satellite Prison Camp in Edgefield, South Carolina. He brings this action under 28 U.S.C. § 2241 challenging his sentence imposed by the United States District Court for the Eastern District of Virginia.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines that this matter should be recharacterized as a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. The Magistrate Judge further suggests that if the petitioner consents to the conversion, withdrawal or amendment of his petition, as required under *Castro v. United States*, 540 U.S. 375 (2003), then the court

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

should proceed accordingly. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

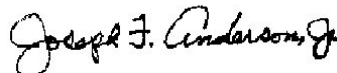
The petitioner was advised of his right to respond to the Report and he has timely done so. In his response, the petitioner concedes that his § 2241 petition should be recharacterized as one under § 2255 and transferred to the Eastern District of Virginia where the defendant was originally sentenced.

After carefully reviewing the applicable laws, the record in this case, and the Report and Recommendation, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law and it is incorporated herein by reference.

Accordingly, the Clerk is authorized to recharacterize the § 2241 petition as one under 28 U.S.C. § 2255 and note such modification in the text of the docket sheet so that the original filing date remains as May 10, 2013. The Clerk shall then transfer this action to the United States District Court for the Eastern District of Virginia for further proceedings.

IT IS SO ORDERED.

July 31, 2013
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge